

Tennessee Valley Authority

§ 1301.10

(3) A specified disclosure date, which shall be a reasonable time subsequent to the notice.

(h) *Exceptions to notice requirements.* The notice requirements of paragraphs (d) and (g) of this section shall not apply if:

(1) TVA determines that the information should not be disclosed;

(2) The information lawfully has been published or has been officially made available to the public;

(3) Disclosure of the information is required by statute (other than the FOIA) or by applicable regulation; or

(4) The designation made by the submitter under paragraph (c) of this section appears obviously frivolous—except that, in such a case, the component shall, within a reasonable time prior to a specified disclosure date, give the submitter written notice of any final decision to disclose the information.

(i) *Notice of FOIA lawsuit.* Whenever a requester files a lawsuit seeking to compel the disclosure of business information, TVA shall promptly notify the submitter.

(j) *Corresponding notice to requesters.* Whenever TVA provides a submitter with notice and an opportunity to object to disclosure under paragraph (d) of this section, TVA shall also notify the requester(s). Whenever TVA notifies a submitter of its intent to disclose requested information under paragraph (g) of this section, TVA shall also notify the requester(s). Whenever a submitter files a lawsuit seeking to prevent the disclosure of business information, TVA shall notify the requester(s).

§ 1301.9 Appeals.

(a) *Appeals of adverse determinations.* If you are dissatisfied with TVA's response to your request, you may appeal an adverse determination denying your request, in any respect, to TVA's FOIA Appeal Official, Tennessee Valley Authority, 400 W. Summit Hill Drive (WT 7D), Knoxville, Tennessee 37902-1401. You must make your appeal in writing, and it must be received by the FOIA Appeal Official within 30 days of the date of the letter denying your request. Your appeal letter may include as much or as little related information

as you wish, as long as it clearly identifies the TVA determination (including the assigned request number, if known) that you are appealing. An adverse determination by the TVA FOIA Appeal Official will be the final action of TVA.

(b) *Responses to appeals.* The decision on your appeal will be made in writing within 20 days (excluding Saturdays, Sundays, and legal holidays) after an appeal is received. A decision affirming an adverse determination in whole or in part shall contain a statement of the reason(s) for the affirmance, including any FOIA exemption(s) applied, and will inform you of the FOIA provisions for court review of the decision. If the adverse determination is reversed or modified on appeal, in whole or in part, you will be notified in a written decision and your request will be reprocessed in accordance with that appeal decision.

(c) *When appeal is required.* If you wish to seek review by a court of any adverse determination, you must first appeal it under this section.

[64 FR 4044, Jan. 27, 1999, as amended at 65 FR 16513, Mar. 29, 2000; 67 FR 14853, Mar. 28, 2002; 75 FR 11735, Mar. 12, 2010]

§ 1301.10 Fees.

(a) In general, TVA shall charge for processing requests under the FOIA in accordance with paragraph (c) of this section, except where fees are limited under paragraph (d) of this section or where a waiver or reduction of fees is granted under paragraph (k) of this section. If the applicable fees are \$100 or more, TVA ordinarily will collect all applicable fees before sending copies of requested records to a requester. If the applicable fees are less than \$100, TVA ordinarily will bill the requester for the fees in the letter responding to the request and enclosing the requested records. Requesters must pay fees by check or money order made payable to the Tennessee Valley Authority.

(b) *Definitions.* For purposes of this section:

(1) *Commercial use request* means a request from or on behalf of a person who seeks information for a use or purpose that furthers his or her commercial, trade, or profit interests, which can include furthering those interests